

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

NICOLE R. AZOCAR,

Plaintiff,

v.

SAM'S WEST, INC. D/B/A/ SAM'S
CLUB, et al.,

Defendants.

No. 2:23-cv-0872 DJC AC PS

ORDER

Plaintiff is proceeding in this action pro se, and the action was accordingly referred to the undersigned for pretrial proceedings by E.D. Cal. R. ("Local Rule") 302(c)(21). Plaintiff requested authority pursuant to 28 U.S.C. § 1915 to proceed in forma pauperis ("IFP") and filed the necessary affidavit. ECF No. 2. That motion is GRANTED.

I. SCREENING

Granting IFP status does not end the court's inquiry. The federal IFP statute requires federal courts to dismiss a case if the action is legally "frivolous or malicious," fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2). The court finds that, for screening purposes only, plaintiff's product liability claims are sufficiently cognizable.

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II. CONCLUSION

For the reasons stated above, IT IS HEREBY ORDERED that:

1. Service of the Complaint (ECF No. 1) is appropriate for the following defendants:

- Sam's West Inc. D/B/A Sam's Club
- Walmart, Inc.
- Teknor Apex Company

2. The Clerk of the Court is directed to issue forthwith, and the U.S. Marshal is directed to serve within ninety days of the date of this order, all process pursuant to Federal Rule of Civil Procedure 4, without prepayment of costs.

3. The Clerk of the Court shall send plaintiff the above: one USM-285, one summons, a copy of the complaint, and an appropriate form for consent to trial by a magistrate judge.

4. Plaintiff is directed to supply the U.S. Marshal, within 15 days from the date this order is filed, all information needed by the Marshal to effect service of process, and shall promptly file a statement with the court that said documents have been submitted to the United States Marshal.

The court anticipates that, to effect service, the U.S. Marshal will require, for each defendant in ¶ 3, above, at least:

- a. One completed summons;
- b. One completed USM-285 form;
- c. One copy of the endorsed filed complaint, with an extra copy for the U.S. Marshal;
- d. One copy of the instant order; and
- e. An appropriate form for consent to trial by a magistrate judge.

5. In the event the U.S. Marshal is unable, for any reason whatsoever, to effect service on any defendant within 90 days from the date of this order, the Marshal is directed to report that fact, and the reasons for it, to the undersigned.


6. The Clerk of the Court is directed to serve a copy of this order on the U.S. Marshal, 501 "I" Street, Sacramento, Ca., 95814, Tel. No. (916) 930-2030.

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1 7. Failure to comply with this order may result in a recommendation that this action be
2 dismissed.

3 IT IS SO ORDERED.

4 DATED: May 12, 2023

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6 ALLISON CLAIRE
7 UNITED STATES MAGISTRATE JUDGE
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FOR THE EASTERN DISTRICT OF CALIFORNIA

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SAM'S WEST, INC. D/B/A SAMS
CLUB, et al.,

Defendants.

No. 2:23-cv-0872 DJC AC (PS)

NOTICE OF SUBMISSION

Plaintiff has submitted the following documents to the U.S. Marshal, in compliance with
the court's order filed _____:

_____ completed summons form

_____ completed USM-285 form

_____ copy of the complaint

_____ completed form to consent or decline to consent to magistrate judge jurisdiction

Date

Plaintiff's Signature